

HOUSE BILL No. 1350

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-31; IC 14-21-1.

Synopsis: Native American affairs commission. Establishes the Native American affairs commission. Authorizes the commission to determine final disposition of Native American human remains that have been removed from a burial site and to make recommendations to various governmental agencies concerning issues relevant to Native American residents of Indiana.

Effective: June 1, 2003; July 1, 2003.

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January 14, 2003, read first time and referred to Committee on Appointments and Claims.

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Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1350

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-4-31 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]:
4 **Chapter 31. Native American Affairs Commission**
5 **Sec. 1. As used in this chapter, "commission" refers to the**
6 **Native American affairs commission established by section 4 of this**
7 **chapter.**
8 **Sec. 2. As used in this chapter, "department" refers to the**
9 **department of commerce.**
10 **Sec. 3. As used in this chapter, "Native American" means an**
11 **individual who is at least one (1) of the following:**
12 (1) An Alaska native as defined in 43 U.S.C. 1602(b).
13 (2) An Indian as defined in 25 U.S.C. 450b(d).
14 (3) A native Hawaiian as defined in 20 U.S.C. 7912(1).
15 **Sec. 4. The Native American affairs commission is established.**
16 **Sec. 5. (a) The commission consists of eight (8) voting members**
17 **and nine (9) nonvoting members. The voting members of the**

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commission consist of the following:

(1) Six (6) Native Americans, each from a different geographic region of Indiana.

(2) Two (2) Native Americans who have knowledge in Native American traditions and spiritual issues.

(b) The nonvoting members of the commission consist of the following:

(1) The lieutenant governor or the lieutenant governor's designee.

(2) The commissioner of the commission for higher education or the commissioner's designee.

(3) The commissioner of the state department of health or the commissioner's designee.

(4) The secretary of the office of family and social services or the secretary's designee.

(5) The director of the department of natural resources or the director's designee.

(6) The state superintendent of public instruction or the superintendent's designee.

(7) The commissioner of the department of workforce development or the commissioner's designee.

(8) One (1) member of the house of representatives appointed by the speaker of the house of representatives.

(9) One (1) member of the senate appointed by the president pro tempore of the senate.

(c) The governor shall appoint each Native American member of the commission to a term of four (4) years, and any vacancy occurring shall be filled by the governor for the unexpired term. Before appointing a Native American member to the commission, the governor shall solicit nominees from Indiana associations that represent Native Americans in the geographic region from which the member will be selected.

(d) A member of the commission may be removed by the member's appointing authority.

Sec. 6. The affirmative votes of at least five (5) members of the commission are required for the commission to take any official action, including public policy recommendations and reports.

Sec. 7. (a) The department shall provide staff and administrative support for the commission.

(b) Expenses incurred under this chapter shall be paid from funds appropriated to the department.

(c) The lieutenant governor shall appoint a voting member of

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the commission to serve as the commission's chairperson.

Sec. 8. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for travel expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council.

Sec. 9. The commission shall study problems common to Native American residents of Indiana in the areas of employment, education, civil rights, health, and housing. The commission may make recommendations to appropriate federal, state, and local governmental agencies concerning the following:

(1) Health issues affecting Native American communities, including data collection, equal access to public assistance programs, and informing health officials of cultural traditions relevant to health care.

(2) Cooperation and understanding between the Native American communities and other communities throughout Indiana.

(3) Cultural barriers to the educational system, including barriers to higher education and opportunities for financial aid and minority scholarships.

(4) Inaccurate information and stereotypes concerning Native Americans, including the accuracy of educational curriculum and inappropriate team mascots.

(5) Measures to stimulate job skill training and related workforce development, including initiatives to assist employers to overcome communication and cultural differences.



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(6) Programs to encourage the growth and support of Native American owned businesses.

(7) Public awareness of issues affecting the Native American communities.

(8) Issues concerning preservation and excavation of Native American historical and archeology sites, including reburial of Native Americans.

(9) Measures that could facilitate easier access to state and local government services by Native Americans.

Sec. 10. Subject to the federal Native American Graves Protection and Repatriation Act and after receiving the recommendations from the division of historic preservation and archeology, the commission shall decide the final disposition of any Native American human remains that have been removed from a burial ground.

Sec. 11. The commission may not study or make recommendations on the following issues:

(1) Any tribal sovereignty issue.

(2) Gambling on tribal land.

SECTION 2. IC 14-21-1-25, AS AMENDED BY P.L.46-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) The commission shall adopt rules establishing standards for plans.

(b) With respect to archeological plans, the rules must impose a standard of conduct that does the following:

(1) Promotes the scientific investigation and conservation of past cultures.

(2) Considers the interests and expertise of amateur archeologists and professional archeologists.

(c) With respect to development plans, the rules must impose a standard of conduct that preserves and protects both of the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity, as determined by the commission.

(d) Plans required under this chapter must be submitted to the department for approval according to rules adopted by the commission.

However, the plans must also be approved by the Native American affairs commission (IC 4-4-31-4) if the plans will disturb Native American burial grounds.

SECTION 3. IC 14-21-1-27, AS AMENDED BY P.L.14-2000, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) A person who disturbs buried human

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remains shall do the following:

(1) Notify the department **and the Native American affairs commission (IC 4-4-31-4)** within two (2) business days of the time of the disturbance.

(2) Treat or rebury the human remains in a manner and place according to rules adopted by the commission or a court order and permit issued by the state department of health under IC 23-14-57.

(b) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor.

SECTION 4. IC 14-21-1-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) The commission shall adopt rules under IC 4-22-2 to implement this chapter.

(b) When adopting rules under this chapter the commission shall consider the following:

(1) The rights and interests of landowners.

(2) The sensitivity of human beings for treating human remains with respect and dignity.

(3) The value of history and archeology as a guide to human activity.

(4) The importance of amateur archeologists in making historical, cultural, and archeological discoveries.

(5) Applicable laws, standards, and guidelines for the conduct of archeology and codes of ethics for participation in archeology.

(6) Recommendations by the Native American affairs commission (IC 4-4-31-4).

SECTION 5. [EFFECTIVE JUNE 1, 2003] (a) As used in this SECTION, "commission" refers to the Native American affairs commission established by IC 4-4-31-4, as added by this act.

(b) The governor shall make the initial appointments to the commission not later than July 1, 2003. In making an initial appointment, the governor shall indicate the length of the term for which the individual is appointed.

(c) Notwithstanding IC 4-4-31-5(c), as added by this act, the initial terms of office for the eight (8) individuals appointed to the commission by the governor are as follows:

(1) Two (2) members appointed under IC 4-4-31-5(a)(1), as added by this act, for a term of one (1) year.

(2) One (1) member appointed under IC 4-4-31-5(a)(1), as added by this act, and one (1) member appointed under IC 4-4-31-5(a)(2), as added by this act, for a term of two (2) years.

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1 **(3) Two (2) members appointed under IC 4-4-31-5(a)(1), as**
2 **added by this act, for a term of three (3) years.**

3 **(4) One (1) member appointed under IC 4-4-31-5(a)(1), as**
4 **added by this act, and one (1) member appointed under**
5 **IC 4-4-31-5(a)(2), as added by this act, for a term of four (4)**
6 **years.**

7 **(d) The initial terms begin July 1, 2003.**

8 **(e) This SECTION expires July 1, 2007.**

9 **SECTION 6. An emergency is declared for this act.**

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